



U.S. Equal Employment Opportunity Commission  
Office of Legal Counsel

131 M Street NE  
Washington, DC 20507  
(202) 663-4500  
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SEP 09 2011

Julianne Pepitone  
CNN

Re: FOIA No.: 820-2011-145566

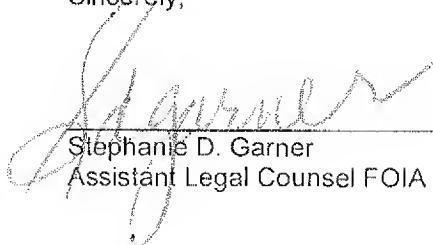
Dear Ms. Pepitone:

Your Freedom of Information Act (FOIA) request, received in this office on August 18, 2011 has been processed. Our search began on August 18, 2011. All agency records in creation as of August 18, 2011 are within the scope of the EEOC's search for responsive records. The paragraph(s) checked below apply:

- ☐ A portion of your request is neither granted nor denied because: ☐ Your request does not reasonably describe the records you wish disclosed or ☐ No records fitting the description of the records you seek disclosed exist or could be located after a thorough search. The remainder of your request is:
- ☐ Granted
- ☐ Denied pursuant to the subsections of the FOIA indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.
- ☐ Granted in part and denied in part. Portions not released are being withheld pursuant to the subsections of the FOIA indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.
- ☐ Your request is granted.
- ☒ Your request is denied pursuant to the subsections of the FOIA indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.
- ☐ Your request is granted in part and denied in part. Portions not released are being withheld pursuant to the subsections of the FOIA indicated at the end of this letter. An attachment to this letter explains the use of these exemptions in more detail.
- ☐ You must send a check for \$[ ] made payable to the United States Treasurer by mail to the above address. Manual search and review time is billed per quarter hour based on the personnel category of the person conducting the search. Fees for search services range from \$5.00 per quarter hour to \$20.00 per quarter hour. Direct costs are billed for computer searches and in certain other circumstances. Photocopying is billed at \$.15 per page. 29 C.F.R. §1610.15. The attached Comments page will further explain any direct costs assessed. The fee has been computed as follows:
- ☐ Commercial use requests: ☐ pages of photocopying; ☐ quarter hour(s) of ☐ review time; and ☐ quarter hour(s) of ☐ search time; Direct costs are billed in the amount of ☐ for ☐.

- ☐ Requests by educational or noncommercial scientific institutions or representatives of the news media: ☐ pages of photocopying. The first 100 pages are provided free of charge.
- ☐ All other requests: ☐ pages of photocopying and ☐ quarter hour(s) of ☐ search time. Direct costs are billed in the amount of ☐ for ☐. The first 100 pages and 2 hours of search time are provided free of charge.
- ☐ The disclosed records are enclosed. No fee is charged because the cost of collecting and processing the chargeable fee equals or exceeds the amount of the fee. 29 C.F.R. § 1610.15(d).
- ☐ The disclosed records are enclosed. Photocopying and search fees have been waived pursuant to 29 C.F.R. § 1610.14.
- ☒ You may appeal this decision by writing within thirty days of receipt of this letter to the Office of Legal Counsel, FOIA Programs, Equal Employment Opportunity Commission, 131 M Street, N.E., Suite 5NW02E, Washington, D.C. 20507. Your appeal will be governed by 29 C.F.R. § 1610.11.
- ☒ See attached Comments page for further information.

Sincerely,



Stephanie D. Garner  
Assistant Legal Counsel FOIA Programs

Applicable Sections of the Freedom of Information Act, 5 U.S.C. § 552(b):

- |  |   |
|--|---|
| <input type="checkbox"/> (2)   | <input type="checkbox"/> (6)                  |
| <input checked="" type="checkbox"/> (3) (A)(i)   | <input type="checkbox"/> (7)(A)               |
| <input checked="" type="checkbox"/> Section 706(b) of Title VII                          | <input type="checkbox"/> (7)(B)               |
| <input checked="" type="checkbox"/> Section 709(e) of Title VII                          | <input type="checkbox"/> (7)(C)               |
| <input checked="" type="checkbox"/> Section 107 of the ADA                               | <input type="checkbox"/> (7)(D)               |
|  | <input type="checkbox"/> Other (see attached) |
| <input type="checkbox"/> (3)(A)(ii)  |   |
| <input type="checkbox"/> 41 U.S.C. §253b(m) of the<br>National Defense Authorization Act |   |
| <input type="checkbox"/> (4)   |   |
| <input type="checkbox"/> (5)   |   |

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The third exemption to the Freedom of Information Act (FOIA), 5 U.S.C. § 552(b)(3) (2006) (emphasis added), amended by OPEN Government Act of 2007, Pub. L. No. 110-175, 121 Stat. 2524, states that disclosure is not required for a matter

specifically exempted from disclosure by statute . . . if that statute

(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue;

Sections 706(b) and 709(e) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e-5(b), 2000e-8(e) (1982), are part of such a statute. Section 706(b) provides that:

Charges shall not be made public by the Commission . . . . Nothing said or done during and as a part of [the Commission's informal endeavors at resolving charges of discrimination] may be made public . . . .

Section 709(e) of Title VII provides:

It shall be unlawful for any officer of the Commission to make public in any manner whatever any information obtained by the Commission pursuant to its authority under this section [to investigate charges of discrimination and to require employers to maintain and submit records] prior to the institution of any proceeding under this title involving such information.

Section 107 of the Americans with Disabilities Act (ADA) adopts the procedures of Sections 706 and 709 of Title VII.

See *Equal Employment Opportunity Commission v. Associated Dry Goods Co.*, 449 U.S. 590 (1981); *Frito-Lay v. EEOC*, 964 F. Supp. 236, 239-43 (W.D. Ky. 1997); *American Centennial Insurance Co. v. United States Equal Employment Opportunity Commission*, 722 F. Supp. 180 (D.N.J. 1989); and *EEOC v. City of Milwaukee*, 54 F. Supp. 2d 885, 893 (E.D. Wis. 1999).

#### DOCUMENTS WITHHELD PURSUANT TO THE THIRD EXEMPTION TO THE FOIA:

EEO-1 Report

A case summary from an open investigation to which you are not a party.

Comments

This is in response to your Freedom of Information Act (FOIA) request. Your request for the EEO-1 report (status 2) and Headquarters report (status 3) for 20 companies listed below for the period of 2004 to present has been denied.

*(Hewlett-Packard Co.; International Business Machines Corp. (IBM); Apple Inc.; Microsoft Corp.; Dell Inc.; Intel Corp.; Cisco Systems Inc.; Ingram Micro Inc.; Amazon.com Inc.; Google Inc.; eBay Inc.; Netflix Inc.; Facebook Inc.; Groupon Inc.; Twitter Inc.; LinkedIn Corp.; Zynga Inc.; Hungry Machine Inc. (dba LigingSocial); Yelp Inc. and Hulu LLC.)*

If you have a pending court case against the above mentioned companies, please resubmit your FOIA request by attaching a copy of the stamped court document indicating you have a pending case to retrieve access to the EEO-1 report(s). Refer to the regulation in 29 C.F.R. § 1610.18(e).

We hope this information is helpful to you.